

FILED

OCT - 9 2008

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Jerry Lewis Dedrick,

Plaintiff,

v.

United States Sentencing Commission,

Defendant.

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Civil Action No. 08-1279

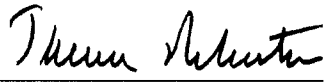
MEMORANDUM OPINION

Plaintiff moves to reinstate this action, which was dismissed by Order of July 25, 2008 for lack of subject matter jurisdiction based on plaintiff's failure to exhaust administrative remedies under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 2671 *et seq.* Plaintiff now claims that he has constructively exhausted because the Sentencing Commission has failed to act within six months of having received his claim. Assuming that plaintiff is correct, reinstatement is not warranted because the FTCA claim would be barred by sovereign immunity.

Plaintiff seeks \$368 trillion for the alleged intentional and knowing discrimination against him as an African American by the use of "a racist sentencing guideline," Compl. at 2, presumably in violation of the equal protection clause. Sovereign immunity bars a suit for money damages against the federal government except upon an explicit waiver by the government. *Federal Deposit Insurance Corporation v. Meyer*, 510 U.S. 471, 475 (1994); *Clark v. Library of Congress*, 750 F.2d 89, 102-04 (D.C. Cir. 1984); *Williams v. Hill*, 878 F. Supp. 269, 272, (D.D.C. 1995), *aff'd Williams v. Hill*, 74 F.3d 1339 (D.C. Cir. 1996). Because the United States has not consented to be sued for constitutional torts, *Federal Deposit Insurance*

*Corporation v. Meyer*, 510 U.S. at 476-86; *Meyer v. Federal Bureau of Prisons*, 929 F. Supp. 10, 13 (D.D.C. 1996), reinstatement would be a futile gesture. *See Epps v. U.S. Atty. Gen.*, \_\_\_\_ F.Supp. 2d \_\_\_\_, (D.D.C., Sept. 8, 2008) (“the FTCA does not waive sovereign immunity for constitutional torts . . . even if he had completed the administrative process”). Accordingly, the motion will be denied by separate Order.

Date: October 3, 2008

  
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United States District Judge